

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY MARCH 17, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 18

Introduced by Assembly Member Knight

December 1, 2008

An act to amend ~~Section~~ *Sections 34902 and 36512* of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as amended, Knight. Local government: city councils.

Existing law requires a city council to, within 30 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

This bill would require the city council to, within 60 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that the
- 2 administration of a special election to fill a vacant position on a
- 3 city council often results in a large and sometimes unnecessary
- 4 financial burden on the citizens of the affected city.

1 *SEC. 2. Section 34902 of the Government Code is amended to*
2 *read:*

3 34902. (a) If a majority of the votes cast on the proposition is
4 for it, the office of mayor shall thereafter be an elective office,
5 except as provided in subdivision (b). At the next succeeding
6 general municipal election held in the city one of the offices of
7 city councilperson, to be filled at the election, shall be designated
8 as the office of mayor, to be filled at the election. The person
9 elected at the election as mayor shall hold office from the Tuesday
10 succeeding his or her election, and until his or her successor is
11 elected and qualifies.

12 In the case of a vacancy in the office of the mayor for any reason,
13 the council shall fill the vacancy by appointment. If the council
14 fails to fill it within ~~30~~ 60 days, it shall call an election to fill the
15 vacancy to be held on the next established election date to be held
16 not less than 114 days thereafter. A person appointed or elected
17 to fill a vacancy shall hold office for the unexpired term of the
18 former incumbent.

19 (b) After an office of elective mayor has been established, the
20 city council may subsequently submit to the electors the question
21 of whether or not to eliminate the elective office of mayor, pursuant
22 to the procedures enumerated in this article, and thereby reestablish
23 the procedure of selection of the mayor by the city council. If a
24 majority of the votes cast on the proposition are in favor of the
25 elimination of the office of elective mayor, the office shall be
26 eliminated on the expiration date of the incumbent's term, and on
27 the date the procedure of selection of the mayor by the city council
28 shall be reestablished.

29 ~~SEC. 2.~~

30 *SEC. 3. Section 36512 of the Government Code is amended*
31 *to read:*

32 36512. (a) If a vacancy occurs in an appointive office provided
33 for in this chapter, the council shall fill the vacancy by
34 appointment. A person appointed to fill a vacancy holds office for
35 the unexpired term of the former incumbent.

36 (b) If a vacancy occurs in an elective office provided for in this
37 chapter, the council shall, within 60 days from the commencement
38 of the vacancy, either fill the vacancy by appointment or call a
39 special election to fill the vacancy. The special election shall be
40 held on the next regularly established election date not less than

1 114 days from the call of the special election. A person appointed
2 or elected to fill a vacancy holds office for the unexpired term of
3 the former incumbent.

4 (c) Notwithstanding subdivision (b) and Section 34902, a city
5 may enact an ordinance that does any of the following:

6 (1) Requires that a special election be called immediately to fill
7 every city council vacancy and the office of mayor designated
8 pursuant to Section 34902. The ordinance shall provide that the
9 special election shall be held on the next regularly established
10 election date not less than 114 days from the call of the special
11 election.

12 (2) Requires that a special election be held to fill a city council
13 vacancy and the office of mayor designated pursuant to Section
14 34902 when petitions bearing a specified number of verified
15 signatures are filed. The ordinance shall provide that the special
16 election shall be held on the next regularly established election
17 date not less than 114 days from the filing of the petition. A
18 governing body that has enacted such an ordinance may also call
19 a special election pursuant to subdivision (b) without waiting for
20 the filing of a petition.

21 (3) Provides that a person appointed to fill a vacancy on the city
22 council holds office only until the date of a special election which
23 shall immediately be called to fill the remainder of the term. The
24 special election may be held on the date of the next regularly
25 established election or regularly scheduled municipal election to
26 be held throughout the city not less than 114 days from the call of
27 the special election.

28 (d) (1) Notwithstanding subdivision (b) and Section 34902, an
29 appointment shall not be made to fill a vacancy on a city council
30 if the appointment would result in a majority of the members
31 serving on the council having been appointed. The vacancy shall
32 be filled in the manner provided by this subdivision.

33 (2) The city council may call an election to fill the vacancy, to
34 be held on the next regularly established election date not less than
35 114 days after the call.

36 (3) If the city council does not call an election pursuant to
37 paragraph (2), the vacancy shall be filled at the next regularly
38 established election date.

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